

REMARKS

Claims 1, 9 and 11-28 are now pending in the application. Claims 1, 9 and 11-28 are rejected. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C § 102

Claims 13 and 14 are rejected under 35 U.S.C. § 102(b) as being unpatentable over DE19615540 to Guntrum. These rejections are respectfully traversed.

Claim 13 calls for an upper frame member adapted to be pivotally coupled to the motor vehicle and a substantially U-shaped tubular lower frame member fixed to the upper frame member forming an uninterrupted ring surrounding an opening in combination with the other elements of claim 13. The Applicant respectfully submits that Guntrum does not disclose each and every element of previously presented claim 13. In particular, Guntrum only broadly discusses a frame (3) and shows only a schematic representation of a vehicle and pivotable closure. An upper frame member pivotally coupled to the motor vehicle being fixed to a substantially U-shaped tubular lower frame member forming an uninterrupted ring surrounding an opening is not disclosed. Accordingly, the Applicant respectfully requests withdrawal of the § 102 rejection to claim 13.

Regarding claim 14, this claim further clarifies that the upper frame member includes spaced apart vertically extending end segments forming a portion of the ring. Guntrum provides no such disclosure. As such, the Applicant respectfully requests withdrawal of the § 102 rejection to claim 14.

REJECTION UNDER 35 U.S.C § 103

Claims 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19615540 to Guntrum in view of U.S. Patent No. 6,776,449 to Komatsu et al. These rejections are respectfully traversed.

Claim 15 depends from claims 14 and 13. As such, the Applicant respectfully submits that claim 15 is allowable for the reasons previously presented. In addition, claim 15 calls for the upper frame member including an inner header panel fixed to an outer header panel. The Applicant respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another, render claim 15 as obvious.

The Examiner states that Komatsu et al. teaches such an arrangement. The Applicant respectfully disagrees and points the Examiner's attention to Figure 10 of Komatsu et al. that provides an exploded perspective view of tailgate 101. Tailgate 101 includes an outer panel 110 and an inner panel 111. The total size and shape of inner panel 111 are substantially the same as those of outer panel 110 (Col. 14, lines 1-6). Based on the Figures and previously cited description within Komatsu et al., the Applicant respectfully submits that Komatsu et al. does not disclose an upper frame member including an inner header panel fixed to an outer header panel. On the contrary, Komatsu et al. discloses two shaped panels 110, 111 that define the entire shape of tailgate 101 with no disclosure of an individual upper frame member fixed to a substantially U-shaped tubular lower frame member where the upper frame member includes an inner header panel fixed to an outer header panel as defined by claim 15.

Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 15.

Regarding claim 16, the Applicant respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another, render claim 16 as obvious. Claim 16 calls for a reinforcement member having a first portion fixedly secured to the inner header panel and the outer header panel, where the reinforcement member has a second portion fixedly secured to the lower frame member for reinforcing the attachment between the upper and lower frame members. The Examiner points to Komatsu et al. as disclosing the use of reinforcing member (145, 146) having a first portion fixedly secured to the inner header panel (111) and the outer header panel (110). The Applicant respectfully disagrees with this characterization of Komatsu et al. In particular, elements 145 and 146 as shown in Figure 12 of Komatsu et al. are not reinforcing members but are constituent elements of inner panel 111. Elements 144-149 of Komatsu et al. are joined together by laser welding which is carried out by facing end portions of adjoining blanks with each other thereby forming a tailored blank. Thereafter, the tailor welded blank is press-formed to define inner panel 111 (Col. 14, lines 65 through Col. 15, line 6). Therefore, the Applicant respectfully submits that Komatsu et al. is unable to teach or suggest a reinforcement member having a first portion fixedly secured to the inner header panel and the outer header panel where the reinforcement member has a second portion fixedly secured to the lower frame member for reinforcing the attachment between the upper and lower frame members where the cited "reinforcing member (145, 146)" is a component part of inner

header panel 111 as stated by Komatsu et al. Therefore, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 16.

Claims 17 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19615540 to Guntrum and U.S. Patent No. 6,776,449 to Komatsu et al. in view of DE 19713317. These rejections are respectfully traversed.

Claims 17 and 18 depend from claims 12, 13, 14 and 15. As such, the Applicant respectfully relies on the previous arguments regarding the obviousness rejections relating to those claims. In addition, claim 17 notes that the second portion of the reinforcement member is at least partially positioned within the tubular lower frame. The Applicant respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another, render claim 17 as obvious. In the § 103 rejection to claim 17, the Examiner combines Guntrum, Komatsu et al. and DE '317. The Applicant respectfully submits that the Examiner is picking and choosing various elements from the prior art without reason for their combination. For example, the Examiner previously stated that Komatsu et al. discloses a reinforcement member (145, 146). The Examiner now states that DE '317 teaches a reinforcement member extending in a tubular lower frame. However, the so-called "reinforcement member" of DE '317 is a single piece of light alloy metal having vertical extensions (19, 20) as shown in Figure 1. As such, DE '317 does not teach or suggest a reinforcement member having a first portion fixedly secured to an inner header panel and an outer header panel where the reinforcement member is fixedly secured to the lower frame member to reinforce the attachment between the lower and upper frame members.

Furthermore, no teaching, suggestion or reason exists to combine the tailor welded blank inner panel and outer panel arrangement of Komatsu et al. with the tubular frame 3 and integrally formed single light alloy metal upper traverse (12) construction of DE '317. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 17.

Regarding claim 18, the Applicant respectfully submits that claim 18 recites that the first portion of the reinforcement member extends substantially perpendicularly from the second portion. The Applicant respectfully submits that because no reinforcement member is disclosed, the specific geometry of the reinforcement member is not disclosed. As such, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 18. As an aside, the Examiner states that Komatsu et al. teaches a substantially L-shaped cross section when rejecting claim 18. Claim 18 does not recite this limitation. Other claims within the pending application refer to this limitation.

Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19615540 to Guntrum in view of U.S. Patent No. 6,719,356 to Cleland et al. Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE19615540 to Guntrum in view of U.S. Patent No. 6,983,968 to Brauer et al. or U.S. Patent No. 7,032,958 to White et al. or U.S. Patent No. 7,025,166 to Thomas. These rejections are respectfully traversed.

The Applicant respectfully relies on the arguments previously set forth regarding claim 13. Furthermore, claim 20 calls for wiring extending through the tubular lower frame of a pivotable liftgate. The Applicant respectfully submits that none of the references cited by the Examiner, either solely or in combination with one another,

render claim 20 as obvious. In particular, no reason exists to combine Brauer et al., White et al. or Thomas with Guntrum because the references cited by the Examiner relate to stationary frames and not frames that are pivotable relative to another component. As such, the Applicant respectfully requests withdrawal of the § 103 rejections to claim 20.

The Examiner rejects claims 1, 9, 11, 12 and 21-27 at the bottom of page 5 of the Office Action by stating that the above is hereby referenced. This statement is unclear. The Applicant respectfully requests withdrawal of the rejections to claim 1, 9, 11, 12 and 21-17 because the Examiner has failed to provide a *prima facie* case of obviousness. In particular, claims 1, 12 and 21 are each independent claims having different scope. The combination of references used to reject each of the independent claims and the reasons to combine these references have not been provided by the Examiner.

For example, claim 1 calls for an upper frame member having an inner header panel fixedly secured to an outer header panel, a generally U-shaped, integrally formed lower frame member secured to the upper frame member and a reinforcement member having a first portion fixedly secured to the inner header panel and the outer header panel where the reinforcement member has a second portion fixedly secured to the one of the vertical segments of the U-shaped lower frame member, wherein the reinforcement member includes a "L"-shaped cross-section. This combination of elements has not been previously presented elsewhere.

Furthermore, the Applicant would like to point out that Figure 16 of Komatsu et al. as referenced in Paragraph 7 of the Office Action, is a cross-sectional view taken at line 16 as shown in Figure 14. This section does not cut through the elements (145, 146)

that the Examiner states are reinforcing members. As such, Figure 16 does not disclose a reinforcement member having a substantially L-shaped cross-section. Furthermore, the Applicant respectfully submits that Komatsu et al. does not disclose these features anywhere within the patent.

Claim 28 is rejected under 35 U.S.C. § 103(a) as being unpatentable over DE 19615540 to Guntrum and U.S. Patent No. 6,776,449 to Komatsu et al. in view of U.S. Patent No. 6,053,562 to Bednarski. This rejection is respectfully traversed.

The Applicant respectfully submits that none of the references cited, either solely or in combination with one another, render claim 28 as obvious. The Examiner combines Guntrum, Komatsu et al. and Bednarski to render claim 28 obvious. The Applicant respectfully submits that there is no teaching, suggestion, motivation or any reason to combine Komatsu et al. with Bednarski. On the contrary, Komatsu et al. **teaches away** from a combination with Bednarski due to inner panel 111 being constructed from laser welded blanks as previously described. Furthermore, the interconnection of inner panel 111 and outer panel 110 is described as a hemming work of folding an outer peripheral portion 110f onto an outer peripheral portion 111a, on which an adhesive is applied. Spot welds may also be added. The Applicant respectfully submits that this interconnection of stamped inner panel 111 and stamped outer panel 110 does not facilitate the use of hydroforming due to the requisite relatively high internal pressure used to form components via hydroforming. Accordingly, the Applicant respectfully requests withdrawal of the § 103 rejection to claim 28.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1222.

Respectfully submitted,

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By: /Donald G. Walker/
Donald G. Walker, Reg. No. 44,390

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

DGW/jmm